

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-1749V

ELIZABETH JACKMAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 31, 2025

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for
Petitioner.*

Eleanor Hanson, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 5, 2023, Elizabeth Jackman filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) following an influenza vaccination she received on September 30, 2022. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 30, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On January 30, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$106,426.52, comprised of \$95,000.00 for pain and suffering and \$11,426.52 for past unreimbursed expenses. Proffer at 2. In the Proffer, Respondent represented that

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$106,426.52, comprised of \$95,000.00 for pain and suffering and \$11,426.52 for past unreimbursed expenses to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
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ELIZABETH JACKMAN,

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SECRETARY OF HEALTH AND
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Respondent.

No. 23-1749V

Chief Special Master Corcoran (SPU)
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 5, 2023, Elizabeth Jackman (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of a influenza (“flu”) vaccine she received on September 30, 2022. Petition at 1. On October 10, 2024, the Court issued Findings of Fact, “find[ing] it more likely than not that the flu vaccination in this case was administered to Petitioner in the right shoulder on September 30, 2022.” ECF No. 18, at 6. On December 20, 2024, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recognizing that the Chief Special Master’s factual findings are the law of the case and advising that he would not defend the case on other grounds during further proceedings before the Office of Special Masters. ECF No. 22. On December 30, 2024, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to

compensation for her SIRVA.¹ ECF No. 24.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$95,000.00 in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$11,426.52. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and

¹ Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Chief Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master's December 30, 2024, entitlement decision.

the Court's judgment award the following²: a lump sum payment of \$106,426.52, to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner.

Summary of Recommended Payments Following Judgment

Lump sum to be paid through an ACH deposit
to petitioner's counsel's IOLTA account
for prompt disbursement to petitioner, Elizabeth Jackman: **\$106,426.52**

Respectfully submitted,

BRETT A. SHUMATE
Acting Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

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Assistant Director
Torts Branch, Civil Division

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future, unreimbursed expenses, future lost earnings and future pain and suffering.

/s/ Eleanor A. Hanson

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DATED: January 30, 2025